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Lawmakers set new mortgage bankruptcy bill
By Patrick Rucker

WASHINGTON (Reuters) - Legislation designed to stem foreclosures by allowing bankruptcy judges to erase some mortgage debt will be introduced by Congressional Democrats on Tuesday, and hopes are high that it will pass after a similar plan failed last year.

Democrats in both the U.S. House of Representatives and Senate plan to introduce the legislation.

A similar plan failed in the Senate last spring as President George W. Bush and many Republican lawmakers opposed it, but supporters of what has been dubbed "mortgage cram-down" believe that they will prevail as the housing crisis has deepened and President-elect Barack Obama prepares to take office.

"Economic conditions have only worsened since we last debated this plan," said **Rep. Brad Miller**
, a member of the House Financial Services Committee who plans to introduce a bankruptcy reform bill on Tuesday.
"Until we stop the slide in foreclosures and falling home prices, the economy will get worse still."

Last month, Credit Suisse boosted its estimate of the number of mortgages on which it expects to foreclose through 2012 to 8.1 million -- a 25 percent increase from its April estimate.

The legislation would change allow bankruptcy judges to modify home loans in the same way that they currently may modify other unsettled obligations, such as credit card debt.

While the housing market downswing continues, some in the housing industry have warned that it is the wrong time to write long-lasting mortgage rules.

"Credit markets move like a pendulum so if you accept that there was too much credit a few years ago, there is probably too little credit now," said Francis Creighton, the top lobbyist for the Mortgage Bankers Association. "Cram-down would lock the pendulum at an overly restrictive point."

Foes of the cram-down plan argue that it would wrongly invalidate mortgage contracts and raise future costs of borrowing, but that opposition is beginning to wilt in the face of a worsening crisis.

"This crisis is so severe that every possible solution must be on the table," Jerry Howard, president of the National Association of Homebuilders, said in a statement last week. In political battles last spring, the homebuilders had used their lobbying heft to help block the bankruptcy plan.

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Miller, a North Carolina Democrat, said he is counting on Sen. Richard Durbin of Illinois to help him steer the plan through Congress.

Durbin, a member of the Senate leadership, has promised to push for the new bankruptcy rules to be included in an economic stimulus package being crafted by Congressional Democrats.

Obama supported the foreclosure-prevention plan last year and has promised new initiatives to help troubled borrowers stay in their homes.

The lending industry has said that allowing bankruptcy judges to modify mortgage obligations would change how they weigh risk. Currently a lender knows that it has recourse to foreclosure if a borrower fails to meet mortgage payments, but the lender does not have to factor in the possibility that the payments it receives could be decreased by a judge.

Consumer advocates, though, argue that the plan to give homeowners protection in bankruptcy is a natural extension of current law and urgently needed to stem foreclosures.

Courts can generally cut through complex mortgage contracts more aggressively than the private sector, said Wade Henderson, head of the Leadership Conference on Civil Rights, who has testified before Congress on the issue.

"The continued erosion of the housing market has probably made adopting this proposal inevitable," he said.

(Additional reporting by Al Yoon in New York; Editing by Leslie Adler)